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# Applying for and Maintaining Participation in the SFA Programs

*In this chapter, we will discuss how and when a school applies for approval to participate in any Student Financial Assistance (SFA) Program. We also discuss changes that can affect a school's participation and how and when to report these changes.*

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## APPLYING TO PARTICIPATE

To participate in any of the SFA Programs—the Pell Grant Program, the Federal Direct Loan Program, the Federal Family Education Loan (FFEL) Program, and the campus-based programs (Federal Supplemental Educational Opportunity Grant [FSEOG], Federal Work-Study [FWS], and Federal Perkins Loan)—a school must be certified by the Department.

To apply for institutional participation, a school must submit an Application for Approval to Participate in Federal Student Financial Aid Programs (Application) to the Department. In evaluating the school and deciding whether to approve or deny the request to participate in any SFA Program, the Department examines the Application and accompanying submissions. In addition, for schools that are participating or have participated in the SFA Programs, the Department will examine a school's audits and program reviews. The Department also will check to see if a school has submitted all the required financial statements and compliance audits. The Department may request additional materials (such as school catalogs or copies of contracts with third-party servicers) and ask additional questions. Note that, effective October 1, 1998, the Higher Education Amendments of 1998, Public Law 105-244 (Amendments of 1998) allow a school to provide a copy of its contract with a third-party servicer upon request, rather than requiring that it be submitted as part of the certification process.

The Department uses this information to examine three major factors about the school: institutional eligibility, administrative capability, and financial responsibility. Each of these subjects is discussed in detail in Chapters 1-4. The Amendments of 1998 clarify that the Application is to contain information that allows the Department to evaluate a school's financial responsibility and administrative capability. In addition, the Amendments require that the Application provide, at the option of a school, for participation in one or more of the FFEL and Direct Loan programs. (Both of these provisions are effective October 1, 1998.)

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## Application Form

*Sec. 498(b)*

This chapter covers:

- When a school should submit an Application to Participate in the Federal Student Financial Aid Programs,
- The steps a school must follow when submitting an Application
- How to submit changes to an Application
- Quality Assurance Program
- Experimental Sites Initiative.

### ***Electronic application***

Applications for initial certification, recertification, reinstatement, or reporting changes to previous applications must be submitted to the Department electronically through the Internet (for more information on required electronic processes, see Chapter 3). A signature page is required and must be mailed separately along with all required supporting documentation. The Department has made the Application available on the Department's web site on the World Wide Web. The address is

<http://www.eligcert.ed.gov>

### ***Electronic Application Process***

1. A school seeking initial certification should enter the web site above, and click on the hot link marked, "initial application". The hot link provides specific requirements that the school needs to review and follow to gain eligibility and certification.
2. If the school believes it meets all the requirements and wants to apply for approval, it must provide answers to certain basic questions on the Electronic Application. These questions are taken from the Application and are numbered respectively.
3. Once the school answers these questions, the school prints and faxes them to the Case Management and Oversight (CMO) Team in the school's home state. A current list of CMO phone numbers can be found on the eapp web site above.
4. CMO then provides the school with an OPEID number that gives the school access to the entire electronic application on the Internet. The school reenters and completes the electronic application.
5. The information provided will be entered into the CMO database and will be printed on the paper Application. This reduces the need to answer the question more than once.

CMO recommends that the school keep a copy of its application (and supporting documents) and retain proof of the date when it

This Application is divided into 13 sections, plus a glossary at the end.

<i><b>This Section ...</b></i>	<i><b>Is for ...</b></i>
<i>A through D</i>	<i>General questions about the school.</i>
<i>E and F</i>	<i>Questions about educational programs and locations that the school wishes to be eligible for SFA Programs.</i>
<i>G</i>	<i>Questions about telecommunications and/or correspondence (tele/corr) courses, students enrolled under ability-to-benefit provisions, and incarcerated students.</i>
<i>H</i>	<i>Schools that are initial applicants, schools with a change in ownership or structure, and schools seeking reinstatement.</i>
<i>I</i>	<i>Foreign institutions, including foreign graduate medical schools.</i>
<i>J</i>	<i>Questions about third-party servicers that perform any function relating to the school's SFA Programs.</i>
<i>K</i>	<i>Questions about the school's administrative capability and financial responsibility.</i>
<i>L</i>	<i>The school's President/CEO/Chancellor to sign.</i>
<i>M</i>	<i>A checklist of copies of documents that must be included, as applicable.<sup>1</sup></i>
<i>Glossary</i>	<i>Specific definitions of terms used in the application.</i>

<sup>1</sup> These include the school's current letter of accreditation; valid state authorization; and, in some cases, audited financial statements, a default management plan and, for a school undergoing a change in ownership, an audited balance sheet showing the financial condition of the school at the time of the change in ownership.

submitted the Application. The completed electronic version of the Application is sent to the Department. The school must submit the paper page containing the original authorizing signature of the school's President/Chief Executive Officer (CEO)/Chancellor.

The date of submission for an electronic application is the date a school uses the "Submit Application" page to electronically submit the application or the date the signature page and supporting

documents were postmarked or sent by a delivery service, whichever is later. For an application that is mailed or delivered, the Department considers the date of submission to be the postmark date or a delivery service's or courier's written verification or printout of the shipping date.

If a school has questions, it is encouraged to contact Case Management and Oversight.

### ***Site Visits***

Prior to the Amendments of 1998, the law required the Department to conduct a site visit at each school before the school was certified or recertified for participation in the SFA Programs. The Department was permitted to establish priorities about how schools are selected to receive site visits. In addition, the Department was permitted to coordinate the site visits with site visits by states, guaranty agencies, and accrediting agencies to eliminate duplication and reduce administrative burden. Finally, the Department was permitted to charge to cover the expense of site visits and certification.

## **PRECERTIFICATION TRAINING REQUIREMENT**

In order to participate in any SFA Program, a school must send two representatives (an administrative official and a financial aid representative) to a basic precertification training workshop offered by the Department. The Department also requires a school that has undergone a change in ownership, structure or governance to attend the training.



**Note:** The Application now allows a school to select the SFA Program(s) it wishes to participate in and opt not to participate in others. If the school later decides that it would like approval to participate in SFA Programs in addition to the ones indicated on its submitted Application, it is required to send representatives to precertification training again (The law requires that training take place within the 1st year of each first-time approval to participate in an SFA Program).

The precertification workshop provides a general overview of the SFA Programs and their administration. It does not cover fiscal and accounting procedures in detail; the Department offers fiscal officer training separately.

- The attending administrative official must be the school's CEO for a for-profit school; nonprofit schools may send another administrative official designated by the chief administrator. The administrative official must attend at least the first two days of the workshop.
- The attending financial aid representative must be the person designated by the school to be responsible for administering the SFA Programs. The financial aid representative must attend all 3-1/2 days of the workshop.

- If the school uses a consultant to administer its financial aid, the consultant must attend the training as the school's financial aid representative. Because the school ultimately is responsible for proper SFA Program administration, the Department strongly recommends that a financial aid employee from the school attend the training as well.

A school affected by this precertification training requirement will receive notification of the requirement, a schedule of workshops, and registration instructions along with an Application. The school must attend the training no later than 12 months after it signs the PPA.

The regulations allow schools to meet the precertification requirement by sending the specified individuals to other training programs that are approved by the Department. However, at this time no precertification training programs other than the Department's have been approved.

### **When to Complete an Application**

A school submits a materially complete application to the Department when it

- wishes to be approved for the first time (initial certification) to participate in the SFA Programs;
- wishes to be reapproved (recertification) to participate in the SFA Programs (the application must be completed 90 days before the expiration of the current Program Participation Agreement (PPA));
- wishes to be designated as an “eligible institution” so that its students may receive deferments under the SFA Programs, its students may be eligible for the HOPE Scholarship tax credit, or so that the school may apply to participate in federal HEA programs other than the SFA Programs; or
- wishes to be reinstated to participate in the SFA Programs.
- undergoes a change in ownership, a conversion for a for-profit institution to a nonprofit institution or vice versa, or a merger of two or more institutions (referred to collectively as a “change in ownership, structure or governance” for the remainder of the chapter) and wishes to participate in the SFA Programs;

Each of these five circumstances is discussed in more detail in the next section of this chapter.

The 1992 reauthorization of the HEA required that every four years a school must be reapproved (recertified) to participate in the SFA Programs. The Amendments of 1998 extend the certification period to up to 6 years. In addition, the Amendments of 1998 require

### **Materially Complete**

*An institution submits a materially complete application if it submits a fully completed application form supported by*

- *a copy of the institution's state license or other equivalent document authorizing the institution to provide a program of postsecondary education in the state in which it is physically located,*
- *a copy of a document from its accrediting agency that grants it accreditation status, including approval of the non-degree programs it offers, and*
- *any other required supporting documentation.*

the Department to notify schools six months in advance of the expiration of their certification.

The Amendments also direct the Department to publish special recertification regulations for foreign schools that receive less than \$500,000 in FFEL loan funds.

**A school seeking initial certification to participate in the SFA Programs**

- May submit an application to the Department at any time.<sup>1</sup>
- Must submit a materially complete application to the Department.
- Following submission of an Application, the Department will contact the school if it has additional questions about the application. A school that has never been certified will not be considered certified during the review period.
- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.
- In the case of a proprietary institution and a postsecondary vocational institution, there is an eligibility requirement that the school must have been providing the same or similar postsecondary instruction continuously for at least two consecutive years before it can participate in the SFA Programs. This is known as the Two-Year Rule. (See Chapter 1).

**A school seeking to be recertified to continue to participate in the SFA Programs**

- Must submit an Application before the expiration date listed in its Program Participation Agreement (PPA).
- If the school submits its materially complete application to the Department no later than 90 calendar days before its PPA expires, its eligibility to participate in the SFA Programs continues until its application is either approved or not approved. This is true even if the Department does not complete its evaluation of the application before the PPA's expiration date. (For example, if a school's PPA expires on June 30 and it submits its Application by April 1, the school remains certified during the Department's review period—even if the review period extends beyond June 30.) If the 90th day before the PPA's expiration falls on a weekend or a federal holiday and the school submits its application no later than the

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1. In the case of a proprietary institution and a postsecondary vocational institution, there is an eligibility requirement that the school must have been providing the same or similar postsecondary instruction continuously for at least two consecutive years before it can participate in the SFA Programs. This is known as the Two-Year Rule. (See Chapter 1.)

next business day, the Department considers the application to be submitted 90 days before the PPA expires. If the school's application is not received at least 90 days before the PPA expires or is not materially complete, the school's PPA will expire and the SFA Program funding will cease.

- Following submission of an Application, the Case Team will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.
- If a school is certified (and is seeking recertification), it will remain certified during the review period if it submitted a materially complete application during the correct time frame (above).
- Depending on the outcome of its review, the Case Team either will send a school copies of the PPA to sign (and further instruction) or notify the school that its application is not approved and why.
- The school's certification period is up to 6 years. And, the Department must notify schools 6 months in advance of the expiration of their certification.

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**Certification Cite**

*34 CFR 668.14*

**A school applying for eligibility for its students to: receive deferments under federal student loan programs, be eligible for the HOPE and Lifetime Learning Tax Credit and/or to participate in federal HEA programs other than the SFA Programs**

To meet the requirements for its students to defer student loan payments and to take part in other HEA programs, the school is required to be approved as an eligible school- it is not actually required to award SFA funds. (See Chapter 1 for information about what constitutes an eligible school.)

- School may submit an Application to the Department at any time.
- Must submit a materially complete application to the Department.
- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.
- If a school has never been an eligible school under the HEA, it will not be considered eligible during the Department's review period.

- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.

**A school that voluntarily left the SFA Programs**

- May seek to be reinstated at any time.
- Must submit a materially complete application to the Department.
- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.
- If a school once participated in the SFA Programs but no longer does so, it will not be considered certified during the Department's review period.
- Depending on the outcome of its review, the Department either will send the school copies of the PPA to sign (and further instruction) or notify it that its application is not approved.

**A school that was terminated from the SFA Programs or that left because it was about to be terminated or otherwise sanctioned**

- Generally must wait 18 months before applying for reinstatement,
- Under the cohort default rate rules, generally a school loses participation for the remainder of the fiscal year and the two following fiscal years.
- Must submit a materially complete application to the Department.
- If a school once participated in the SFA Programs but no longer does so, it will not be considered certified during the Department's review period.
- Following submission of an Application, the Department will contact the school if it has additional questions about the application. Generally, this will be within 90 days of the Department receiving an application.

Review of an Application to Participate results in one of three outcomes:

1. Full certification,

2. Provisional Certification, or
3. Denial.

### **PPA and ECAR**

If the Department approves a school's application, the Department sends the school two copies of a PPA (see Chapter 2). The **PPA** includes the date that the school's eligibility to participate expires. The school must sign and return both copies of the PPA to the Department. The Department then sends the school an Eligibility and Certification Approval Report (ECAR) and the school's copy of the PPA, signed and dated on behalf of the Secretary. The **ECAR** contains the most critical of the data elements that form the basis of the school's approval and also a list of the highest level of offering, any nondegree program or short-term programs, and any additional locations that have been approved for the SFA Programs. Both of these forms must be kept available to be reviewed by auditors and Department officials, including the SFA Program reviewers.

### **Effective Date for Participation**

The date the PPA is signed on behalf of the Secretary is the date the school may begin SFA Program participation. (Currently, there are additional steps that must be taken for participation in the Direct Loan Program. For more information, see *Volume 8 — FFEL/DL*.) Pell Grant and campus-based program disbursements to students may begin in the payment period that the PPA is signed on behalf of the Secretary. Schools receiving initial certification can participate in the campus based programs in the next award year that funds become available. FFEL and Direct Loan program disbursements may begin in the loan period that the PPA is signed on behalf of the Secretary. The Department's Program Systems Service and regional offices are notified, as well as state guaranty agencies, that the school is approved to participate in the SFA Programs.

### **Provisional Certification**

In certain cases, rather than granting full approval to participate, the Department may grant a school conditional approval to participate in the SFA Programs (for up to three complete award years). Referred to as "provisional certification" in the law, this approval is granted at the Department's discretion.

The Department will, if it approves the school, offer provisional certification to a school that allowed its PPA to expire and reapplied to participate in the SFA Programs after its approval to participate ended. (Note: If a school applying for recertification meets the submission deadlines detailed in the introduction to the Application, its PPA remains in effect until the Department either approves or does not approve the application.) If the Department grants a provisional certification, the PPA details the provisions of the certification.

Provisional certification is always used when

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### **Provisional Certification**

*Sec. 498(h)*

- a school is applying to participate for the first time (if approved, it will be provisionally certified for no more than one complete award year), and
- a participating school is reapplying because it has undergone a change in ownership, structure or governance. If approved, it will be provisionally certified for no more than three complete award years (see the discussion of “Change in ownership, structure or governance” on page 2-241).

Other times provisional certification may be used are when

- a participating school whose participation has been limited or suspended (or that voluntarily agrees to this provisional status) is judged by the Department to be in an administrative or financial condition that might jeopardize its ability to perform its responsibilities under its PPA,
- a participating school’s accrediting agency loses its Departmental approval (it may be provisionally certified for no more than 18 months after the agency’s loss of approval),
- it is determined that a school is not financially responsible but the school has met other requirements and has accepted provisional certification, or
- a school that is reapplying for certification has a high default rate.

### ***Revoking Provisional Certification***

If the Department determines that a school with provisional certification cannot meet its responsibilities under its PPA, the Department may revoke the school’s participation in the SFA Programs. The Department will notify the school of such a determination in a notice that states the basis and consequences of the determination. The notice is sent by certified mail (or other expeditious means). The revocation takes effect on the date the secretary mails the notice to the school.

The school may request a redetermination of the revocation by submitting, within 20 days of receiving the notice, written evidence (filed by hand delivery, mail, or fax) that the finding is unwarranted. A Department official will review the request and notify the school by certified mail of his or her decision. If the Department official determines that the revocation is warranted, the school may not apply for reinstatement for 18 months after the revocation or after the expiration of any debarment/suspension action, whichever is later.

**A school that undergoes a change in ownership that results in a change of control, structure, or governance:****Cite***34 CFR 668.31*

A change in ownership and control occurs when a person or corporation obtains new authority to control a school's actions. Please see the following section regarding additional requirements. This includes, but is not limited to the following "covered transactions":

1. The sale of the school,
2. The transfer of the controlling interest of stock of the school or its parent corporation,
3. The merger of two or more eligible schools,
4. The division of one school into two or more schools,
5. The transfer of the liabilities of a school to its parent corporation,
6. A transfer of assets that comprise a substantial portion of the educational business of the school, except if it is exclusively in the granting of a security interest in those assets, or
7. A conversion of the school from a for-profit to a nonprofit school.

This does not include a transfer of ownership and control upon the retirement or death of the owner, to –

1. A member of the owner's family (parent, sibling, spouse or child, spouse's parent or sibling, or sibling's or child's spouse), or
2. A person with an ownership interest in the school who has been involved in management of the school for at least two years preceding the transfer.

These are known as an "excluded transactions".

Please see the next section regarding additional requirements.

The application process for a school undergoing a change in ownership is substantially different from the other types of processes described previously, because its participation in the SFA Programs stops on the day of the change. The school may not award SFA Program funds beginning on the date that the change becomes effective until it receives a new PPA signed on behalf of the Secretary of Education. (Exceptions for unpaid commitments of SFA Program

funds are discussed on page 2-247). The school can take advantage of two new options that are now available. They are the preacquisition review and temporary provisional approval after the change in ownership. These are described below.

### **1. Preacquisition Review**



Schools may submit an application marked “preacquisition review” before a change in ownership takes place. This review is to determine if there are any problems facing the potential owner in getting Departmental approval. The application is reviewed to determine whether the school has answered all the questions on the application completely and accurately. It must be submitted at least 45 days prior to the expected date of transaction. The Case Management and Oversight (CMO) Team will notify the school of the results of the review. However, the school will not be given a decision whether its application would be approved or not as a result of this preacquisition review.

If the potential owner decides not to purchase the school, he or she must notify the Case Management Team of the decision to withdraw the application.

If the potential owner considering the change in ownership decides to go through with the purchase, he or she must:

1. Notify the Department within 10 days of the date the change in ownership actually takes place. If this date falls on a weekend or a federal holiday, the notification may be no later than the next business day.
2. Submit the supporting documents required for a materially complete application. Refer to section “M” of the application for the list of specific forms to submit.

### **2. Temporary Approval for Continued Participation on Provisional Certification after Change in Ownership**



The 1998 Amendments, §498(i)(4) of the HEA authorizes the Secretary to permit a school undergoing a change in ownership that results in a change in control to continue to participate in the Title IV, HEA programs on a provisional basis if the school meets the following specific requirements.

The materially complete Application must be received at the Department no later than 10 business days after the change becomes effective. If this date falls on a weekend or a federal holiday, the notification may be no later than the next business day.

- A materially complete application for the purpose of applying for a temporary approval must include: A fully completed application form,
- A copy of the school's state license or equivalent that was in effect on the day before the change in ownership took place,
- A copy of the accrediting approval that was in effect on the day before the change in ownership and had granted the school accreditation status including an approval of the non-degree programs it offers,
- Audited financial statements of the school's two most recently completed fiscal years that are prepared and audited in accordance with the requirements of §668.23; Generally Accepted Accounting Principles (GAAP), published by the Financial Accounting Standards Board, and audited in accordance with Generally Accepted Governmental Auditing Standards (GAGAS) published by the U.S. General Accounting Office, as required by §668.23; **and**
- Audited financial statements of the schools new owner's two most recently completed fiscal years that are prepared and audited in accordance with §668.23 Generally Accepted Accounting Principles (GAAP), published by the Financial Accounting Standards Board, and audited in accordance with Generally Accepted Governmental Auditing Standards (GAGAS), published by the U.S. General Accounting Office, or acceptable equivalent information for that owner, and
- Signature page - Section L.

The supporting documents must be mailed to:

By U.S. Postal Service:

U.S. Department of Education  
Case Management and Oversight  
P.O. Box 44805  
L'Enfant Plaza Station  
Washington, DC 20026-4805

By commercial overnight mail/  
courier delivery:

U.S. Department of Education  
Case Management and Oversight  
7th & D Streets, S.W.  
GSA Building, Room 5643  
Washington, DC 20407  
Phone: (202) 205-1936 (for this purpose)

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**Changes in Ownership, Structure  
or Governance**

*Sec. 498(i)*

If the application is approved, CMO will send the school a Temporary Provisional Program Participation Agreement (Temporary PPA) that includes the same conditions of the existing PPA, if any.

The Temporary PPA expires on the earlier of the:

- Date that the Department signs a new program participation agreement;
- Date that the Department notifies the school that its application is denied; or
- Last day of the month following the month in which the change of ownership occurred unless the school provides the necessary documents described below.

The Department can automatically extend the Temporary PPA on a month to month extension **IF** prior to the expiration date, the school submits:

- A “same day” balance sheet showing the school’s financial position, on the day the ownership changed, prepared in accordance with GAAP and audited in accordance with GAGAS;
- If not already provided, approval of the change of ownership from the school’s state agency that legally authorizes postsecondary education in that state;
- If not already provided, approval of the change of ownership from the school’s accrediting agency; and
- One of the following regarding default management:
  - A Default Management Plan set forth in Appendix D of 34 CFR Part 668; or
  - A Default Management Plan other than that in Appendix D; or
  - The school is exempt from providing a default management plan because the school, including its main campus and any branch campus, does not have a cohort default rate in excess of 10 percent; and the owner of the school does not, and has not, owned any other school with a cohort default rate in excess of 10 percent.

***Change in Controlling Interest***

A change in ownership and control occurs when a person or corporation obtains new authority to control a school’s actions, whether the school is a proprietorship, partnership, or corporation. The most common example of this change in controlling interest is when the school is sold to a prospective owner.

Control of a school can change in other ways, too. For instance, a school can convert from a for-profit to a nonprofit institution (or vice versa). This is a change in tax status. A school's control may change when two or more schools merge or one school divides into several schools. A school's control also changes in situations where a school transfers a significant amount of stock to another person or corporation or when a school transfers its assets or liabilities to another corporation (including related corporations under the same ownership).

A change in ownership and control of a corporation that is neither closely held nor required to be registered with the Securities Exchange Commission (SEC) occurs when a person who has or acquires an ownership interest acquires both control of at least 25% of the total outstanding voting stock of the corporation and managing control of the corporation.

(For a more detailed list of the types of circumstances that signify a change in ownership, structure or governance, see 34 CFR 600.31.)

### ***Owner's Death or Retirement***

However, a school does not automatically have to submit a materially complete Application to the Department when a change in ownership and control is caused by the owner's death or retirement and ownership transfers to a family member or to a person with ownership interest who has been involved in the management of the school for at least two years preceding the transfer. In these situations, the school must notify the Department of the change and provide any supporting information requested by the Department.

The law requires that a school must report to the Department the identity of every owner or person directly or indirectly holding 25% or greater interest in the school.

### ***Changes in Ownership Interest and 25% Threshold***

The school must report any change in ownership interests whenever

- an owner acquires a total interest of 25% or greater,
- an owner who held 25% or greater interest reduces his or her interest to less than 25%, or
- an owner of 25% or greater interest increases or reduces his or her interest but remains the holder of at least 25% ownership interest.

Because of these reporting requirements, even though transferring ownership interest through death or retirement may be excluded from being considered a change in ownership resulting in a change of control, the resulting change in percentage(s) of ownership interests must be reported to the Department.

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### **Family Member**

*A family member is defined as a parent, sibling, spouse, child, spouse's parent, spouse's sibling, or child's spouse.*

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### **Ownership Interest**

*Ownership interest is a share of the legal or beneficial ownership or control of the school or parent corporation, or a right to share in the proceeds of the operation of the school or parent corporation.*

### ***Reporting***

A school must report any changes that result in an individual or owner (including a corporation or unincorporated business entity) acquiring the ability to substantially affect the actions of the school. Such a change must be reported within 10 days of the change; a school owned by a publicly traded corporation must report the change within 10 days after the corporation learns of the change. All schools are subject to these requirements, which are enforced during the institutional participation approval process, program reviews, and audit process.

An individual or corporation has the ability to substantially affect the school's actions when he or she or it

- personally holds, or holds in partnership with one or more family members, at least a 25% ownership interest in the school,
- personally represents (with voting trust, power of attorney, or proxy authority), or represents in partnership with one or more family members, any individual or group holding at least a 25% ownership interest in the school,
- is the school's chief executive officer (or other executive officer) or a member of the school's board of directors, or
- is the chief executive officer (or other officer) for any entity that holds at least 25% ownership interest in the school, or is a member of the board of directors for such an entity.

The regulations [34 CFR Part 600.30(e) and 668.15(f)] include examples of ownership interest as an interest as tenant, joint tenant, or tenant by the entirety, a partnership, and an interest in a trust. The regulations specifically exclude from the term the proceeds of the operation of a mutual fund that is regularly and publicly traded, an institutional investor, or a profit-sharing plan that covers all employees (except that voting rights of employee stock plans may be attributed to anyone having authority to vote those shares).

To ensure that its SFA Program participation isn't jeopardized, a school must report an ownership change (including the name[s] of the person[s] involved) to the Department. On receiving the notification, the Department will investigate and notify the school whether a change in ownership resulting in a change of control has occurred that will require the school to submit a materially complete Application if it wishes to participate in the SFA Programs.

### ***Steps to be Taken by Former Owners***

If a school is changing control, the former owner(s) must notify the Department about the change and the date it occurs. This must be at the same time that the owner notifies the school's accrediting agency, but no later than 10 days after the change occurs. (If the former owner fails to notify the Department, the prospective owner is

responsible for doing so.) The current owner also should notify the appropriate state agency that licensed or approved the school.

### ***Payments to Eligible Students***

Before the change in ownership, structure or governance takes place, the former owner should make sure that all students receive any SFA payments already due them for the current payment period and that all records are current and comply with federal regulations. If the school needs additional funds for its students for the current payment period, it should request them and disburse them to all eligible students before the change takes place.

The school loses its approval to participate in the SFA Programs when the change takes place. Generally, a school may

- use Pell Grant or campus-based funds that it has received or request additional Pell Grant or campus-based funds from the Department to satisfy any unpaid commitment made to a student from the date the school's participation ended until the scheduled completion date of the payment period, and
- credit a student's account with the proceeds of a second or subsequent disbursement of a FFEL Stafford or a Direct Loan to satisfy any unpaid commitment made to the student under the FFEL Stafford or Direct Loan Program from the date participation ends until the scheduled completion of that period of enrollment. (The proceeds of the first disbursement of the loan must have been delivered to the student or credited to the student's account prior to the end of the participation.)

The school should notify all new students that no federal aid funds can be disbursed until the school's eligibility is established and a new PPA signed by the Department is received.

The school may not award the SFA Program funds beginning on the date that the change becomes effective. If the school's prospective owner(s) wish the school to participate in one or more of the SFA Programs, the school must submit a materially complete Application to the Department.

### ***Steps to be Taken by Prospective Owners***

The prospective owner should request that the former owner provide copies of the school's existing ECAR, refund policy, any required default management plan, program reviews, audited financial statements (for at least the two most recently completed fiscal years), compliance audits, and an audited balance sheet showing the financial condition of the institution at the time of the change. The prospective owner will need this information to receive approval to participate.

Accompanying the application must be audited financial statements for the school's two most recently completed fiscal years, an audited balance sheet showing the financial condition of the school at

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**Default Management Plan  
Required**

*Sec. 487(a)*

the time of the change, and a default management plan, if required. Each participating school must demonstrate financial responsibility independently. If the entity that has acquired the school is an ongoing entity (partnership or corporation), the school must also submit completed audited financial statements of the acquiring entity for the last two consecutive fiscal years. (For information on financial responsibility and submitting audited financial statements, see Chapter 2.)

The school also must submit proof that its accreditation is continued under the new ownership or control, along with a photocopy of its state legal authorization under the new ownership.

The school may not award SFA Program funds until it receives a PPA signed on behalf of the Secretary.

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**Accepting Liabilities and Refund  
Policy Cite**

*34 CFR 668.14(b)(24)*

***Accepting Liabilities and Refund Policy***

If the prospective owner(s) acquired the school or if the school is the result of a merger of two or more former schools, the prospective owner is liable for any debts from the former owner's SFA Program administration. The prospective owner accepts liability for any federal funds that were given to the school but that were improperly spent before the date the change in ownership, structure or governance became effective. The prospective owner must also abide by the refund policy for students enrolled before the date the change became effective and must honor all student enrollment contracts signed before the date of the change.

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**Expiration of Certification**

*Sec. 498(g)*

***Effect of Cohort Default Requirements***

As mentioned earlier, the school retains its current and past cohort default rates and must implement any requirements associated with those rates. In fact, cohort default rates calculated for fiscal years prior to the change in ownership may affect the school's SFA participation. A school with a change in ownership, structure or governance may be denied approval to participate in the SFA Programs on the basis of current default rates.

Prior to the Amendments of 1998, a prospective owner was required to submit a new default management plan with the Application regardless of the level of the school's cohort default rate.

However, the Amendments of 1998 exempt a school from submitting a default management plan if (a) neither the subordinate institution nor parent institution has a cohort default rate in excess of 10 percent and (b) the prospective owner does not own, and has not owned, any other school with a cohort default rate in excess of 10 percent. This provision is effective October 1, 1998.

***Audits and Closeout Procedures***

Although a separate financial aid compliance audit is not required when there is a change in ownership, structure or governance, the prospective owner may choose to have the accounts audited before

they are closed out. Any questions about SFA accounts or close-out procedures can be answered by the Department's Financial Management Specialists for the Pell Grant, campus-based, Direct Loan, or FFEL program. The prospective owner also should check with the Department's appropriate case management team for information on whether the school owes any Department liabilities resulting from program reviews or audits. See Chapter 11 for CMO phone numbers.

Before the date of purchase, the prospective owner should make sure that all students have received their SFA Program award payments for payment periods and periods of enrollment that began before the date of purchase, that all SFA Program accounts have been closed out, and that all related reports have been filed properly.

Once the Department determines that a school that has undergone a change in ownership, structure or governance is eligible to participate in the SFA Programs, a new ECAR and signed PPA will be sent and appropriate offices will be notified that the school is certified to participate under the new ownership. The school may begin disbursing the SFA Program funds in the payment period or loan period (as applicable) in which the new PPA is signed on behalf of the Secretary.

## **SUBSTANTIVE CHANGES AND HOW TO REPORT THEM**

A school is required to report changes to certain information on its approved Application. Some of these changes require the Department's written approval before the school may disburse the SFA Program funds, others do not (see the charts that follow).

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### ***Changes That Require the Department's Written Approval***

(The number in parentheses refers to the number of the question on the Application.)

#### All Schools

- Change in accrediting agency\* (#15)
- Change in state authorizing agency (#17)
- Change in institutional structure (#18)
- Change in educational programs outside of the scope of current approval (#26)
- Addition of nondegree programs outside of the scope of current approval (#27)
- Change from or to clock hours or credit hours (#27)
- Addition of a location (#30)

- Change to the SFA Programs for which the school is approved\*\* (#37)
- Change in the type of ownership (#22)
- Change in ownership (#24)

\*Notify the Department when you BEGIN making ANY change that deals with your school's institution-wide accreditation.

\*\*Approvals from your accrediting agency and state authorizing agency are NOT required for this change.

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When one of the changes that requires the Department's written approval occurs, a school must notify the Department by

1) reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change, and

2) As soon as the school has received approvals for the change from its accrediting agency and state authorizing agency it must send to the Department

- copies of the approval for the change,
- any required documentation, and
- Section L of the Application containing the original signature of the appropriate person.

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### ***Changes Not Requiring the Department's Written Approval***

All Schools

- Change to name of school\* (#2)
- Change to the name of a CEO, President, Chancellor (#10)
- Change to the name of the chief fiscal officer, financial officer (#11)
- Address change for a principal location\* (#29)
- Address change for other locations\* (#30)
- Change to the school's third-party servicers that deal with the SFA Program funds (#58)

Private nonprofit and for-profit schools only

- Change to the Board of Directors (but not trustees) (#20)

Foreign schools only (including foreign graduate medical schools)

- Change to postsecondary authorization (#42)
- Change to degree authorization (#43)
- Change to program equivalence (#44)
- Change to program criteria (#45)
- Change to U.S. administrative and/or recruitment offices (#46)

Foreign graduate medical schools only

- Change to facility at which school provides graduate medical instruction (#47)
- Change to authorizing entity (#48)
- Change to approval of authorizing entity (#49)
- Change to length of program (#50)
- Change to programs located in the United States (#51)

\*As soon as it has received approvals for the change from its accrediting agency and state authorization agency, a school must send the Department copies of the approvals for change.

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When one of these changes occurs, a school must notify the Department by reporting the change and the date of the change to the Department via the electronic application within 10 calendar days of the change. In addition, a school must send

- any required supporting documentation, and
- Section L of the Application containing the original signature of the appropriate person.

to the address below.

Note that, for a change requiring written approval from the Department (unless otherwise noted) and for some changes that do not require written approval from the Department (noted on chart), a school must obtain approval from the appropriate accrediting agency and state authorizing agency.

The supporting documents must be sent by U.S. Postal Service to

U.S. Department of Education  
CMO  
P.O. Box 44805  
L'Enfant Plaza Station  
Washington, DC 20026-4805

or by commercial courier/overnight mail to

U.S. Department of Education  
CMO  
Room 5643  
7th and D Streets, SW-GSA Building  
Washington, DC 20407

### ***Notification of School Closure or Bankruptcy***

If a change occurs in an Application item not listed in one of the two charts, the school must update the information when it applies for recertification. However, if a school closes or files for bankruptcy, the school must notify the Department within 10 calendar days of either event by sending a letter on the school's letterhead that indicates the date the school closed or plans to close, or the date the school filed for bankruptcy, as appropriate.

When the Department is notified of a change, if further action is needed, it will tell the school how to proceed, including what materials and what additional completed sections of the Application need to be submitted. If a school has questions about changes and procedures, it should contact the Case Management and Oversight.

After receiving the required materials (and depending on the circumstances), the Department will evaluate the change(s) and either approve or deny the change and notify the school.

### **ADDING LOCATIONS OR PROGRAMS**

The ECAR that the Department sends to the school lists the educational programs and locations that are eligible. (The eligibility of a school and its programs does not automatically include separate locations and extensions.) If, after receipt of the ECAR, a school wishes to add a location at which at least 50% of an educational program is offered, it must notify the Department.

Upon receipt of this notice, the Department will either confirm the location's eligibility without requiring an application or will instruct the school to apply for an eligibility and certification determination. (A school that is adding a location must be able to show the Department that the location is properly accredited and licensed by the state.)

For a location to be added, it must meet all institutional eligibility requirements as described in Chapter 1, except the Two-Year Rule. Each site must be legally authorized. To apply for a determination of eligibility for an added location, the school must send the Department the required application sections, a copy of the accrediting agency's notice certifying that the new location is included in the school's accredited status, and a copy of the state legal authorization from each state in which the school is physically located.

The Department will review the information, and will evaluate the school's financial responsibility, administrative capability, and eligibility. Depending upon the circumstances, the Department may conduct an on-site review. If it approves the additional location, a revised ECAR and Approval Letter will be issued. The location is eligible as of the date of the Department's determination. The Department may require a recertification application and a new PPA, in which case the school may disburse funds to students enrolled at that location only after both the school and the Secretary have signed the new PPA. The Department will send the school a revised ECAR.

### ***When School May Make Program Eligibility Determination***

If a school adds an educational program after receiving its ECAR, there are two cases in which the school itself may determine the program's eligibility:

- the added program leads to an associate, bachelor's, professional, or graduate degree (and the school has already been approved to offer programs at that level); or
- the added program is at least 8 semester hours, 12 quarter hours, or 600 clock hours in length and prepares students for gainful employment in the same or related recognized occupation as an educational program that the Secretary already has designated as an eligible program at the school.

Before the school may determine these programs to be eligible and disburse funds to enrolled students, the school must have received both the required state and accrediting agency approvals.

Note, however, that if the school's self-determination of eligibility for an educational program is found to be incorrect, the school is liable for all SFA Program funds received for the program and all SFA Program funds received by or for students enrolled in that program.

### ***Department Must Approve All Other Added Programs***

In all other cases, the eligibility of an added educational program must be determined by the Department before the SFA Program funds can be awarded. The school must submit the required Application sections and a copy of approval of the new program from its accrediting agency and state authorizing agency. The Department will

evaluate the new program and the school. If it approves the additional program, a revised ECAR and Approval Letter is issued for the school, and the school is eligible as of the date of the Department's determination. The school may begin to disburse the SFA Program funds to students enrolled in that program. (For more on program eligibility, see Chapter 1.)

### ***Waivers***

The law mandates percentages of telecommunications and/or correspondence courses, students enrolled under ability-to-benefit provisions, and incarcerated students at a participating school. If there is a change to any of a school's answers to the Yes/No questions in Section G of a submitted Application (which deal with enrollment thresholds in these areas), the school must notify the Department via the application. The Department will advise the school of its options, including whether the school might be eligible for a waiver. (For more information, see Chapter 1.)

### ***Changing from a non-main campus to a branch campus***

If an institution wishes to seek approval for a non-main campus educational site as an eligible branch, the institution must submit completed Applications with the required supplemental documentation on 1) the "main" institution and 2) the non-main campus educational site. The following required supplemental documentation must be submitted for Case Management and Oversight to make a determination as to whether a non-main campus educational site is an eligible branch campus:

- A statement regarding the geographical distance between the main institution and the applicant non-main campus educational site.
- State authorization of the quasi-independent status of the non-main campus educational site from the main institution. This authorization may be in one of the following forms:  
1) Applicable State law, 2) State Charter, 3) University system organization documentation, 4) State Department of Education or State Board of Regents regulations or documentation. Regardless of the type of documentation, there must be an explicit description of the quasi-independent status of the non-main campus educational site from the main institution.
- State authorization (in any of the four forms above) for the non-main educational site to have and maintain its own faculty and administrative staff, its own operating budget, and its own authority to hire and fire faculty and staff.
- An official statement describing its hiring authority.
- A statement from the main institution's primary accrediting agency indicating that it has accredited both the main

institution and the non-main educational site through separate on-site visitations, and that the non-main educational site's accreditation is distinct yet dependent upon the main institution.

- A specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches.
- The operating budget of the non-main campus educational site for the current year and the two prior fiscal years.
- Consolidated financial statements for the prior two years showing a breakdown of the applicant's financial circumstances.
- Other documents requested by the Case Team.

### ***Changes in Accreditation***

If a school decides to change its primary accrediting agency, it must notify the Case Management and Oversight when it begins the process of obtaining accreditation from the second agency. As part of this notice, the school must submit materials relating to its prior accreditation, and materials demonstrating a reasonable cause for changing its accrediting agency. If a school fails to properly notify the Department, the Department will no longer recognize the school's existing accreditation.

If a school decides to become accredited by more than one institutional accrediting agency, it must submit to the Case Management and Oversight (and to its current and prospective agency) the reasons for accreditation by more than one agency. This submission must be made when the school begins the process of obtaining the additional accreditation. If a school obtains additional accreditation and fails to properly submit to the Department its reasons for the additional accreditation, the Department will not recognize the school's accredited status with either agency.

If the Department ceases to recognize a school's accreditation, the school is no longer eligible to award SFA Program funds or take part in other programs under the Higher Education Act of 1965, as amended.

If a school becomes accredited by more than one agency, it must notify Case Management and Oversight of which agency's accreditation the school will use for the purpose of determining the school's institutional eligibility for the SFA Programs.

## Quality Assurance Program

*Sec. 487(a)*

### QUALITY ASSURANCE PROGRAM

Under the Quality Assurance (QA) Program, schools design and establish a comprehensive quality improvement program to increase award accuracy and strengthen their administration and delivery of SFA Programs and services. The emphasis of this program is on prevention or up-front correction and partnerships. It provides schools with the tools and incentives to accurately and effectively deliver student aid and to improve their service to students. It is based on the principles of Total Quality Management, with an annual cycle of assessment and problem identification with measurement, solution design and implementation, and monitoring of results for continuous improvement.

QA Program schools are exempt from certain verification requirements because they develop a school-specific program based on data gathered in the cycle of QA Program activities. Annual reporting requirements and periodic Quality Assurance site visits help ensure accountability and program integrity, and provide technical assistance. Schools that are interested in QA Program participation should contact the Performance and Accountability Improvement Branch at the following address or phone number:

U.S. Department of Education/OPE/SFAP/CMO  
Performance and Accountability Improvement Branch  
400 Maryland Ave., SW  
ROB-3, Room 3925  
Washington, DC 20202-5232  
(202) 260-4788

If a school is interested in conducting a self assessment of its policies, procedures, and overall compliance with SFA requirements, it can use the “Comprehensive Management Assessments” instrument used in the QA Program. This assessment is universally applicable, helping any school determine its strengths and weaknesses in the following areas: institutional participation, fiscal management, recipient eligibility, award calculation and disbursement, and reporting and reconciliation.

Even if a school is not interested in participating in the QA Program, it would benefit from this self-assessment exercise. This assessment was made available to all schools during the 1997-98 award year.

The Amendments of 1998 made the following changes to the specific provisions governing the Quality Assurance Program:

- The current provisions relating to data verification are expanded to include the development and implementation of systems for processing and disbursing student aid and entrance and exit interviews.

- The criteria for the selection of participants are expanded to include a requirement to ensure the selection of a diverse group of schools with respect to size, mission, and geographical distribution.
- The Department is authorized to waive regulations dealing with reporting or verification requirements in the SFA Programs that are addressed in the institution's alternative management plan and prohibits the Department from waiving any statutory provisions.
- The Department is required to review and evaluate the QA Program conducted at each participating institution and to make recommendations to Congress regarding amendments to the law to streamline the administration and enhance the integrity of the student aid programs.

**Experimental Sites Initiative***Sec. 487(a)*

The Quality Assurance (QA) Program is in a transition phase. It's broadened mission fits with SFA's goals of providing outstanding customer service while simplifying, integrating, and reducing the overall cost of administering the federal student financial assistance programs. This new QA Program will be part of a quality partnership program that will serve ALL institutions participating in Title IV by providing tools to promote continuous improvement, program integrity and better service to students.

All provisions are effective October 1, 1998.

**EXPERIMENTAL SITES INITIATIVE**

If a school believes that it has a better way to administer aspects of the SFA Programs than the way required by statute or regulation, it may apply to be an "experimental site." Using the authority under section 487A(d) of the Higher Education Act, the Department has approved exemptions to a variety of SFA statutory and regulatory requirements. So far, over 160 schools have been designated as experimental sites.

Thirteen areas of experimentation have been approved since the 1995-96 award year. They are

- entrance loan counseling,
- exit loan counseling,
- multiple disbursement for single term loans,
- thirty-day delay in loan disbursements for first-time, first-year borrowers,
- loan fees in cost of attendance,

- loan proration for graduating borrowers,
- crediting SFA funds to prior year charges,
- crediting SFA funds to institutional charges,
- overaward tolerance,
- academic term,
- federal work-study time records
- federal work-study payment, and
- ability to benefit.

The effective dates for the first nine experiments are July 1, 1995 to June 30, 2000. However, the Department obtained an extension for one year, through June 30, 2001. The effective dates for the last four experiments are July 1, 1997 to June 30, 2002.

This partnership between ED and institutions encourages schools to develop and test alternative approaches to the current prescriptive requirements. By allowing flexibility in how entrance loan counseling is handled, for example, schools might develop methods that are less administratively burdensome, but more effective in providing loan information. The Department will use results from these experiences to continue reforming administration of the SFA Programs.

The Department submitted a report to Congress on the experience of institutions that participated in the experimental sites initiative from 1995-1998. The report included a list of participants and their experiments, and the findings and conclusions resulting from those experiments. The Department seeks a limited number of institutions for participation as additional experimental sites to provide recommendations to the Department on the impact and effectiveness of proposed regulations or new management initiatives.

The Amendments of 1998 made several changes to the provisions that govern the Experimental Sites Initiative:

- Prior to approving additional experimental sites, the Department must consult with Congress and provide a list of institutions and the specific regulatory and statutory waivers, a statement of the objectives to be achieved, and the time period for the experiment.

- The Department may waive statutory requirements for participating schools based on the experiment except that the Secretary may not waive provisions related to award rules, grant and loan maximums, and need analysis requirements.

These provisions are NOT subject to the negotiated rulemaking process. All are effective October 1, 1998.

For further information on the experimental sites initiative, please call the Performance and Accountability Improvement Branch at 202-260-4788.

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